



# भारत का राजपत्र The Gazette of India

असाधारण  
EXTRAORDINARY

भाग II—खण्ड 2  
PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 31st August, 1990:—

I

BILL No. XVI OF 1990

*A Bill to provide for the fixation of wages and for improvement of working conditions of domestic workers and for matters connected therewith.*

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Domestic Workers' (Conditions of Service) Act, 1990.

(2) It extends to the whole of India, except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(4) It shall apply to every employer employing one or more workers for domestic work in his house.

2. In this Act, unless the context otherwise requires,—

“domestic worker” means any worker employed for cooking, housing-cleaning and attending to all other jobs connected with the household chores.

Short title, extent, comment and application.

Definition.

Applica-  
tion of  
the provi-  
sions of  
the Indus-  
trial  
Disputes  
Act, 1947.

3. (1) The provisions of the Industrial Disputes Act, 1947, shall, so far as practicable and subject to the modifications herein specified, apply to, or in relation to, a domestic worker as they apply to, or in relation to, a workman within the meaning of that Act.

14 of 1947.

(2) The provisions of section 25F of that Act, in its application to a domestic worker, shall be construed as if in clause (a) thereof, for period of notice referred to therein in relation to the retrenchment of a workman, the following periods of notice in relation to the retrenchment of a domestic worker had been substituted, namely:—

(a) three months in case of a domestic worker who has been in continuous service for a period of not less than two years, and

(b) two months in case of other domestic workers.

Payment  
of gra-  
tuity to  
domestic  
workers.

4. Where any domestic worker has been in continuous service, whether before or after the commencement of this Act, for not less than one year, and—

(i) his services are terminated by the employer for any reason whatsoever; or

(ii) he voluntarily resigns from service; or

(iii) he dies while in service, the domestic worker or, in the case of his death, his nominee or if there is no nomination in force at the time of the death of the domestic worker, his heirs or successors, as the case may be, shall, without prejudice to any benefits or rights accruing under the Industrial Disputes Act, 1947, be paid, by the employer on such termination, resignation or death, gratuity which shall be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months.

Fixation  
of wages  
by the  
Govern-  
ment.

5. (1) The Central Government may, by order and in consultation with the representatives of the domestic workers from amongst the Unions or Associations of the domestic workers,—

(a) fix rates of wages in respect of the domestic workers; and

(b) revise, from time to time, at such intervals, as it may think fit, the rates of wages fixed under this section.

(2) The rates of wages may be fixed or revised by the Central Government in respect of domestic workers for time work and for piece work.

Payment  
of wages

6. Every domestic worker shall be paid wages by his employer at the rates which shall in no case be less than the rates of wages specified in the Order referred to in Section 5.

Hours  
of work

7. No domestic worker shall be required to work, or allowed to work, for more than eight hours during the day, exclusive of the time for meals and leisure.

Period  
of rest

8. Every domestic worker shall be allowed during the period of seven consecutive days, a rest for a period of not less than twenty-four consecutive hours.

9. Every domestic worker, who has put in service for six months, shall be entitled every year to,—

Leave entitle-  
ment.

(i) casual leave for twelve days,

(ii) sick leave for twenty-one days, and

(iii) earned leave at the rate of one day for a period of 11 days spent on duty.

10. Every employer of a domestic worker shall prepare and maintain such registers, records and muster-rolls, and in such manner, as may be prescribed by rules made under this Act.

Mainten-  
ance of  
registers  
and  
other  
records.

11. (1) The Central Government may, by notification in the Official Gazette, appoint such persons, as it thinks fit, to be the Inspectors for the purposes of this Act and may define the local limits of their jurisdiction.

Appoint-  
ment of  
Inspec-  
tors.

(2) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code.

12. An Inspector may,—

(a) require any employer to produce any register, muster-roll or other documents relating to the domestic workers employed by him and examine such documents;

Power  
of Inspec-  
tors.

(b) take, on the spot or otherwise, evidence of any person for the purpose of ascertaining whether the provisions of this Act or rules made thereunder or any other Act made applicable to a domestic worker are complied with, irrespective whether any other authority has been empowered with the same power under any other law.

13. If any employer contravenes the provisions of this Act, he shall be punishable with fine which may extend to one thousand rupees notwithstanding any other punishment to which he may be liable for the contravention of any other law for the time being in force governing the domestic workers.

Punish-  
ment.

14. The Central Government may, by notification in official Gazette, make rules for carrying out the purposes of this Act.

Power  
to make  
rules.

## STATEMENT OF OBJECTS AND REASONS

There are millions of domestic servants working as maid-servants or male-servants to attend to house-hold and other personal work. The working conditions of these domestic servants are miserable and primitive. They are also not given any benefits such as gratuity, provident fund, bonus, protection for these workers under any statute as on today. They are neither paid the minimum wages nor their hours of service are determined. They are not given any rest or leisure time during the day. They are also not given any benefits such as gratuity, provident fund, bonus, leave with wages, holidays etc. Their services can also be terminated at any time without notice and without any compensation by their employers.

The domestic servants have been agitating for better service conditions throughout the country. It is, therefore, very essential to regulate their service conditions.

Hence, this Bill.

DR. BAPU KALDATE

## FINANCIAL MEMORANDUM

Clause 11 of the Bill provides for appointment of Inspectors for examining the documents relating to employment of the domestic workers. The Inspectors will be appointed both by the Central Government and the State Governments within their jurisdiction. It is not possible at this stage the estimate of the expenditure involved so far as the Central Government is concerned.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Act. The delegation of legislative power is of normal character.

## II

## BILL No. XVIII OF 1990

*A Bill further to amend the Constitution of India.*

~~Be~~ it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1990.

Short  
title.

2. In article 368 of the Constitution,—

Amend-  
ment of  
article  
368.

(i) in clause (1) after the words “in this Constitution” the words “but subject to clause (5)” shall be inserted;

(ii) For clause (5) the following clause shall be substituted, namely:—

“(5) For the removal of doubts, it is hereby declared that the power of Parliament to amend the Constitution shall not extend to making any amendment affecting its basic structure which shall mean and include—

- (a) democratic form of Government;
- (b) secular character of the Constitution;
- (c) separation of powers between the Legislature, the Executive and the Judiciary;
- (d) the federal character of the Constitution; and
- (e) the dignity and freedom of individual”.

### STATEMENT OF OBJECTS AND REASONS

There are sharp differences of opinion in the country on the scope of the power of Parliament to amend the Constitution. This question is repeatedly raised in various fora and divergent views are expressed. It is, therefore, necessary to settle the scope of Parliament's power of amending the Constitution under article 368.

It is generally agreed that the basic features of the Constitution, namely secularism, democracy, federalism and the freedom of the individual would always subsist in a democratic State.

The amending power of Parliament derived from article 368 of the Constitution cannot be used, as clearly stated in the Supreme Court judgement in the famous Keshavananda Bharati's case, to destroy or abrogate the basic structure, or framework of the Constitution. If this position is not so accepted, a political party with the requisite two-third majority in Parliament could so amend the Constitution as to debar any other political party from functioning, establish totalitarianism, destroy the federal and secular character of the Constitution and democratic form of Government and after having effected these purposes, make the Constitution unamendable or extremely rigid.

Hence this Bill.

BAPU KALDATE



## III

## BILL No. XVII OF 1990

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1990.

Short  
title  
and  
commen-  
cement.

(2) It shall come into force—

(i) in the Union Territories within a period of six months from the date on which it received the assent of the President; and

(ii) in the States on such date as a State Government may, by notification in the Official Gazette, appoint.

2. After article 23 of the Constitution, the following new articles shall be inserted, namely:—

Insert-  
tion of  
new arti-  
cles 23A,  
23B and  
23C.

“23A. (1) All citizens shall have the right to work and shall be entitled to adequate means of livelihood.

Right  
to work  
and  
unemp-  
loyment  
allow-  
ance.

(2) Every Citizen, who fails to procure such means as are referred to in clause (1) shall be entitled to an unemployment allowance.

Right to  
free and  
compul-  
sory  
education.

23B. All children until they complete the age of fourteen years shall have the right to free education.

Mone-  
tary as-  
sistance  
to old,  
sick and  
disabled.

23C. The State shall provide monetary assistance to every citizen, who has completed the age of sixty years or who remains sick or who is permanently incapacitated or disabled; and has nothing to support himself".

### STATEMENT OF OBJECTS AND REASONS

Articles 39 of the Constitution states among other things "The State shall, in particular, direct its policy towards securing—(a) that the citizens, men and women equally, have the right to an adequate means of livelihood". Article 41 of the Constitution enjoins upon the State to make effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness and disablement. Similarly, article 45 of the Constitution enjoins upon the State to provide for free and compulsory education for all children until they complete the age of fourteen years.

But these rights are only in the nature of Directive Principles of States policy. They are not justiciable and there is no legal sanction behind them. The focal point of the State activity, in the economic sphere, ought to be the achievement of these objectives. Whereas enough lip sympathy has been showered on those who remain unemployed, the measures taken to combat unemployment have proved to be far from being effective. Employment should be everyone's birthright in Swaraj. Nothing can shake our peoples' faith in the democratic system more than the nation's failure to provide employment to all able bodied citizens. Failing this, the minimum the State should do is to provide for unemployment insurance.

The State cannot by its neglect, inaction or omission allow the dilution or diminution of directive Principles which it has been directed to preserve and not to infringe.

The Bill seeks to include what is contained in articles 39, 41 and 45 in the Fundamental Rights so as to clothe them with legal sanction.

BAPU KALDATE

## FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for adequate means of livelihood failing to procure such means of livelihood, every citizen shall be entitled to an unemployment allowance. Besides, assistance is to be given to every citizen who has completed the age of sixty years or who remains sick or is permanently incapacitated or disabled and has nothing to fall back upon and is unable to fend for himself. There are 9.33 million job seekers on the live register of Employment Exchanges. According to the statistics, 5.2 per cent of the population of our country is aged 60 years and over.

There is, therefore, a need for the provision of expenditure on these accounts. The total estimated expenditure on the unemployment allowance will come to about Rs. 400 crores annually. The expenditure over the assistance to be provided to the old citizens in their bad days is estimated to be Rs. 150 crores. So far as the provision for free education to the children who are below the age of fourteen is concerned, although the education is the responsibility of the States, the Central Government will have to make some grants towards this to assist the States in these programmes. Such expenditure is estimated to be Rs. 50 crores.

There is no non-recurring expenditure involved in the Bill. It is, however, not possible to give precise details of the total expenditure involved at this stage.

## IV

## BILL NO. XXXVII OF 1990

*A Bill to provide for the establishment of a permanent bench of the High Court at Ahmedabad at Rajkot.*

BE it enacted by Parliament in the Forty-first Year of the Republic of the India as follows:

1. This Act may be called the High Court at Ahmedabad (Establishment of a Permanent Bench at Rajkot) Act, 1990.

Short  
title.

2. There shall be established a permanent Bench of the High Court at Ahmedabad at Rajkot and such judges of the High Court at Ahmedabad, being not less than three in number, as the Chief Justice of the High Court, may from time to time nominate, shall sit at Rajkot in order to exercise the jurisdiction and powers for the time being vested in that High Court in respect of cases arising in the district of Rajkot, Bhavnagar, Amreli, Jamnagar, Junagarh, Surendranagar and Kutch.

Establish-  
ment of  
a perma-  
nent  
bench of  
High  
Court of  
Ahmedabad  
at Rajkot.

**STATEMENT OF OBJECTS AND REASONS**

Gujarat is one of the largest populated State of the Indian Republic. There is need for establishing a bench of the High Court at Ahmedabad at Rajkot in the erstwhile Saurashtra region of the State in the interest of speedy administration of justice and for the convenience of the litigant public. The Bill provides for the establishment of such a bench of the High Court at Ahmedabad at Rajkot.

ANANTRAY DEVASHANKER DAVE

## V

## BILL No. XV OF 1990

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

- |  |  |
|--|--|
| 1. This Act may be called the Constitution (Amendment) Act, 1990.  | Short title.                           |
| 2. In article 156 of the Constitution, in clause (1) after the words, "the President", the words, figure and letter "unless he is removed from office by impeachment in the manner provided in article 159A" shall be inserted.  | Amendment of article 156.              |
| 3. After article 159 of the Constitution, the following article shall be inserted, namely:—<br><br>"159A. (1) A Governor shall be impeached for the violation of the Constitution or on the ground of proved misbehaviour or incapacity.<br><br>(2) No charge for the impeachment of a Governor shall be preferred by the House or by either House of a Legislature of a State, as the case may be, unless—<br><br>(a) the proposal to prefer such charge is contained in a resolution which has been moved after at least fourteen days | Procedure for impeachment of Governor. |

notice in writing signed by not less than one-tenth of the total number of members of the House or either House of the State Legislature has been given of their intention to move the resolution; and

(b) such resolution has been passed by a majority of the total membership of the concerned House.

(3) When a charge has been so preferred by the House or either House of the State Legislature, the House itself or the other House, as the case may be, shall investigate the charge or cause the charge to be investigated and the Governor shall have the right to appear and to be represented at such investigation.

(4) If as a result of the investigation a resolution is passed by a majority of the total membership of the House by which the charge was investigated or caused to be investigated declaring that the charge preferred against the Governor has been sustained, such resolution shall have the effect of removing the Governor from his office as from the date on which the resolution is so passed.”



## STATEMENT OF OBJECTS AND REASONS

The Union and the States must function on mutually complementary and co-operative basis. Office of the Governor of a State is a very important office for the success of democratic Governments in the States. On his impartiality and integrity depend the autonomy of the States and the operation and maintenance of Centre-State relations. There have been instances of unfortunate criticism in the past that the Governors are forced to function as agents of the Union Government. In a case, the Supreme Court has held that the Governor is "not amenable to the directions of the Government of India, nor is he accountable to them for the manner in which, he carries out his functions and duties. His is an independent constitutional office which is not subject to the control of the Government of India."

The Governor's power to appoint or dismiss a Chief Minister and dissolve the State Assembly has on several occasions been used to flout the democratically expressed will of the people.

Dr. B. R. Ambedkar had remarked in the Constituent Assembly that "the position of the Governor is exactly the same as the position of the President." It is, however, noteworthy that in our Constitution there is a provision for removing the President by a process of impeachment but there is no such provision for impeachment and removal of Governors. It is felt that the Constitution should be amended so as to incorporate therein provisions for the impeachment and removal of the Governors also.

Hence, this Bill.

SATYA PRAKASH MALAVIYA.

## VI

BILL No. XXXV of 1990

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short  
title.

1. This Act may be called the Constitution (Amendment) Act, 1990.

Amend-  
ment of  
article 324.

2. In article 324 of the Constitution, after clause (6) the following clause shall, be inserted, namely:—

“(7) The Chief Election Commissioner and any other Election Commissioner shall not be eligible for any office either under the Government of India or under the Government of any State or for appointment as Governor of any State or for appointment to any diplomatic assignment after he has ceased to shall his office.”.

### STATEMENT OF OBJECTS AND REASONS

Office of the Chief Election Commissioner and Office of other Election Commissioners are very important offices. Complete independence of the Election machinery in our country is as much important as the independence of judiciary. The Election Commission plays a key role in the conduct of elections to Parliament and State Legislatures, and as also in other elections. The Chief Election Commissioner and the Election Commissioners, who are responsible for the conduct of free and fair elections in the country, should be free from allurements by way of appointment to any other office to be made by Government after they cease to hold their office.

This Bill, therefore, seeks to achieve the aforesaid objective.

SATYA PRAKASH MALAVIYA.

## VII

BILL No. XXXII OF 1990

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short  
title.

1. This Act may be called the Constitution (Amendment) Act, 1990.

Amend-  
ment of  
Tenth  
Sche-  
dule.

2. In paragraph 2 of the Tenth Schedule to the Constitution,—

(a) in the *Explanation* to sub-paragraph (1) sub clause (ii) of clause (b) shall be omitted;

(b) for sub-paragraph (3) the following sub-paragraph shall be substituted, namely:—

“(3) A nominated member of a House who is not a member of any political party on the date of his nomination as such member, shall be disqualified for being a member of the House if he joins any political party after such nomination.”.

### STATEMENT OF OBJECTS AND REASONS

A member of a House nominated by the President of India, who is not a member of any political party on the date of his nomination, can, under sub-paragraph (3) of paragraph 2 of the Tenth Schedule to the Constitution, join any political party within six months from the date on which he takes his seat in the House. This is not in accordance with the spirit of the Constitution. The Constitution, therefore, needs to be amended to the effect that any person nominated by the President, if he is not already a member of any political party, must continue his independent status throughout his term of membership of the House.

This Bill seeks to achieve the aforesaid objective.

SATYA PRAKASH MALAVIYA

## VIII

BILL NO. XXXIX OF 1990

*A Bill to provide for compulsory vocational and technical education in educational institutions and matters connected therewith.*

Enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short  
title,  
extent  
and  
com-  
mence-  
ment.

1. (1) This Act may be called the Compulsory Vocational Education Act, 1990.

(2) It extends to whole of India.

(3) It shall come into force with immediate effect.

Defini-  
tion.

2. In this Act, unless the context otherwise requires, "vocational education" means and includes, vocational programmes of education, basic research and training in engineering technology, architecture, town planning, management, pharmacy, applied arts and crafts and such other technical programmes, as the Central Government may, by notification in the official Gazette, declare.

3. (1) There shall be vocational subjects in all the Secondary and Senior Secondary Schools under the ten plus two system of education.

Compul-  
sory vo-  
cational  
subjects  
at second-  
ary  
schools  
levels.

(2) There shall be minimum of two school level vocational subjects which shall be compulsory for all students and no secondary and senior secondary school certificate shall be awarded to any student unless he passes in those two subjects both in theoretical and in practical tests, if any.

4. There shall be at least one compulsory subject in every Degree course offered by a College or University and every student shall have to pass in that subject with practicals, if any, before a degree is awarded to him.

Compul-  
sory vo-  
cational  
subject  
at col-  
leges.

5. The Central Government shall establish adequate number of industrial training institutes or technical schools and colleges of its own or through private bodies all over the country, offering technical and vocational education.

Govern-  
ment to  
establish  
technical  
schools  
and col-  
leges.

Provided that at least two such institutes or schools shall be established in every District of the country.

6. After the commencement of this Act, the Government shall not permit establishment of new secondary or senior secondary schools and colleges which offer only humanities and social sciences courses.

Restric-  
tion on  
opening  
of  
certain  
educa-  
tional  
institutes.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to  
make  
rules.

## STATEMENT OF OBJECTS AND REASONS

In our country the educational institutions are producing millions of certificate and degree holders every year and most of them find themselves unemployed after completing their studies. In fact, our education system is a clerk producing system which has completely lost its purpose in our vast country and its origin is found in the British rule in India. The British had introduced the education system similar to the present one in India, as they were in need of clerks. Apart from this system of education we do not have proper manpower planning system. The Government had failed in this field as it does not exactly know the actual needs of the country in various fields such as clerical jobs, engineers, doctors and other professionals. If manpower is planning effectively, it may go a long way in socio-economic progress of our Nation.

But it is very unfortunate that we are still continuing with that system of education, and consequently unemployment is growing day by day. The educated youth have no useful vocation to follow on their own. The frustrated youth often take to destructive courses or are abetted to enter into the world of crimes.

Comprehensive technical and vocational education is the only answer to this problem. Vocational education should form a compulsory part of the courses in schools and colleges so that the students after completing their courses, can get useful employment in industrial establishments or through self-employment can earn their livelihood without looking only for white collar jobs. Moreover, if we have trained people in different fields and crafts we can send them to foreign countries where they would be in great demand. The Government itself can channelise export of trained technical manpower to foreign countries through its chain of employment exchanges. It will not only help in eradicating unemployment to a great extent but will also earn valuable foreign exchange for the country. But this dream can be brought into reality if we offer maximum technical institutions on the lines of industrial training institutes to the youth for proper training and making our schools and colleges education vocational training oriented.

This Bill seeks to achieve the above objects.

A. S. AHLUWALIA



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### FINANCIAL MEMORANDUM

Clause 5 of the Bill provides that the Government shall establish more schools and Colleges, at least two in every District, for imparting technical and vocational education. The Bill, therefore, if enacted and brought into operation, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of rupees one hundred crores per annum.

It is also likely to involve a non recurring expenditure of about rupees ten crores.

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### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. These rules will relate to matters of details only. The delegation of legislative power is, therefore, of a normal character.

## IX

BILL NO. XLVIII OF 1990

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short  
title  
and  
commence-  
ment,

1. (1) This Act may be called the Constitution (Amendment) Act, 1990.

(2) It shall come into force with immediate effect.

Inser-  
tion of  
new  
article  
18A,

2. After article 18 of the Constitution the following article shall be inserted, namely:—

Right to  
potable  
water,

“18A. (1) Every citizen shall have the right to adequate potable water as also for cooking and washing purposes.

(2) The State shall provide adequate wells or tubewells or hand-pumps or water taps or water tankers as the case may be in every village, taluk, tehsil and at the district level to make potable water available to each citizen.”

## STATEMENT OF OBJECTS AND REASONS

Water is one of the most essential elements for survival of all living creatures on earth. Our country also has plenty of water in the form of ponds, lakes, rivers and seas. While most of the water of the rivers and seas goes waste in the absence of efficient water management, the lakes and ponds have been dilapidating over the years mainly due to lack of water consciousness among the people. There is acute shortage of potable water almost everywhere in the country including the metropolitan cities. The picture of availability of potable water in the rural India are indeed horrible. In most of the villages in India and in Andhra Pradesh, Bihar, Gujarat, Madhya Pradesh, Orissa, Rajasthan and Uttar Pradesh, in particular, villagers store rainy water in ponds which they use mainly for drinking purposes and they are compelled to use such stagnated, unhygienic water which is often infested with worms and insects, in the absence of any other option.

In addition, in the villages, comparatively affluent upper caste people deliberately send their cattle to bathe in the ponds located in the Scheduled Castes' localities to keep their own ponds clean. There are, of course, some handpumps and wells in existence in some of the villages generally owned by the upper caste people where a Harijan cannot even dare to go near it let alone drawing water therefrom. Although some efforts have been made to ameliorate this problem through a technology mission exclusively dedicated to provide "drinking water for all", the solution still continues to elude larger section of the population.

In a welfare State like ours it is the duty of the State to fulfill the basic needs of its citizens. The State, must therefore, provide potable water to every citizen. Water is available in plenty. It only needs to be properly managed by the Union and State Governments. If potable water is made a fundamental right the State will have to provide it otherwise the villagers as well as urbanites may organise themselves and either collectively or individually move the Courts to force the Government of the day to provide potable water to them. Similarly, if water is included in the list of fundamental rights it will give a new directive to the Government to tackle this serious problem of the people.

Hence this Bill.

S. S. AHLUWALIA

## FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the right to potable water to the citizens and also provides that the State shall provide adequate wells, tubewells, handpumps, taps and water tanks in every village, tehsil, district levels. The Bill, if enacted and brought into operation, will involve expenditure from the consolidated fund of India. It is expected that a recurring expenditure of about five thousand crores will be involved from the Consolidated Fund of India per annum.

A non-recurring expenditure of about rupees one hundred crores per annum is also likely to be incurred from the Consolidated Fund of India.

## X

## BILL No. XLVI OF 1990

*A Bill to provide for a comprehensive insurance scheme to cover life, luggage and other belongings of the railway passengers and for matters connected therewith.*

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Railway Passengers' Insurance Scheme Act, 1990.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act unless the context otherwise requires,—

(a) "Scheme" means the Insurance Scheme formulated under section 3.

(b) terms used but not defined in this Act and defined in the Railways Act, 1989 shall have the meanings and references respectively assigned to them in that Act.

Short  
title,  
extent  
and  
commence-  
ment,

Defini-  
tions.

Railway  
Passeng-  
ers' In-  
surance  
Scheme.

3. (1) The Railway Administrations shall frame a Scheme to be known as "Railway Passengers' Insurance Scheme" (hereinafter referred to in this Act as the Scheme) for compulsory insurance of the railway passengers, their baggage and belongings for the entire stretch of the journey to be performed by them on the railways.

(2) The Scheme shall, among other things, provide for,—

- (a) the terms and conditions of railway passengers' insurance;
- (b) the extent to which losses may be covered; and
- (c) the rate of premium to be paid by the passengers.

Railway  
Adminis-  
tration  
and  
Railway  
Claims  
Tribunal  
to admin-  
ister the  
Scheme.

4. The Scheme shall be administered by the Railway Administrations and the Railway Claims Tribunal.

The Rail-  
way Pas-  
sengers'  
In-  
surance  
Fund.

5. The Central Government shall, by notification in the official gazette, establish a Railway Passengers' Insurance Fund which shall consist of—

- (a) Premium amounts charged from the railway passengers for the insurance;
- (b) any grants made to the fund by the Union Government or the Railway Administration;
- (c) any money received as donations for the purpose of this Act; and
- (d) any income from investment of the amounts of the Fund.

Payment  
of In-  
surance  
amount.

6. Notwithstanding anything contained in the Railways Act, 1989 or in any other law for the time being in force, if a railway passenger when in the course of his journey by train dies or is injured during a robbery or due to any assault by an intruder or by any thief while committing crime therein or by any riotous mob or otherwise, or loses his luggage or personal belongings in any such circumstances, shall be paid full insurance amount by the Railway administrations to the extent of injury or loss suffered by him from the insurance fund.

24 of 1989.

Claims  
for In-  
surance  
amount.

7. Notwithstanding anything contained in the Railway Claims Tribunal Act, 1937 or the Railways Act, 1989, an application for insurance claim may be made to the Claims Tribunal which shall dispose such an application at the earliest but not later than ninety days from the receipt of such application from—

54 of 1987.  
24 of 1989.

(a) the passenger who has sustained injury or suffered any loss of luggage or personal belongings; or

(b) any agent duly authorised by such passenger on his behalf;

or

(c) any of the parents or guardian where such passenger is a minor; or

(d) in case of death of a passenger, any dependent or legal heir of the deceased or where such a dependent is minor, by his guardian.

8. The provisions of this Act, shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Saving of  
other  
laws.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to  
make  
rules.

## STATEMENT OF OBJECTS AND REASONS

Railways are the biggest mode of transport in our country. Daily, it carries millions of passengers from one corner of the country to the other, through its vast network. Similarly, it also carries goods worth crores of rupees every day from place to place. As such, it is the largest revenue earning organisation of the Government. The entire railway operation in India is under the exclusive control of the Central Government. Though the Railways earn crores of rupees from the passengers every day, it has almost completely ignored the aspect of providing security to the life and property of the travelling passengers and payment of due compensation in the event of loss of life and belongings or either of the two in dacoity, robbery, theft or hostility in course of the journey by Rail. Theft of personal belongings of passengers during train travel is very common. Very often robberies and dacoities have also been taking place in the trains. During such daring act, robbers take away all the valuables from the hapless passengers at gun-point. Often passengers while offering resistance, are killed or seriously injured by such robbers, thieves or hooligans in trains and become victims of such criminal activities. There are certain areas which have earned notoriety for train dacoities. The Railways Act, 1989, which was enacted only last year, is also silent on this issue though it provides compensation in cases of accidents only. It is often pointed out that dacoity, robbery, murder, injury, theft or baggage lifting are covered by "law and order" which is a State subject and that it is the responsibility of the respective State Administrations in whose jurisdiction the crime is committed. Thus, the Railways are depriving its passengers their due share or compensation which otherwise should have been paid to them by the railways. The justification for the compensation is that when the railway is earning from the passengers, it must also bear his losses suffered during the journey, as well. Moreover when a crime is committed in a running train, often it starts in a particular State but finally executed in another State. So none of the two administrations accepts the responsibility of the incident and tends to pass the buck to the other. Ordinary passenger cannot fight this apathy of the administration or carry on protracted legal battle against it.

As such, the responsibility of providing complete security to the life and property of travelling passengers during the course of their train journey, must rest with the railways and the onus of paying compensation against loss of luggage and life of passenger during the train



journey must also lie with Railways. Of course, a problem may arise regarding availability of resources to meet such responsibility effectively. To cope with that, Railways may introduce an insurance scheme spreading the component of total premium to each passenger either on pro-rate or on a flat rate per ticket per-head basis. The total additional revenue so generated can be accumulated in an Insurance Fund from which the requisitions for compensation can be easily catered to. Therefore, resources may not be a problem at all. The only thing required in this direction is the will of the railway administration to accept this social responsibility.

Hence this Bill.

S. S. AHLUWALIA

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the framing of Railways Passengers' Insurance Scheme. Clause 4 provides that the Railway Administrations shall administer the Scheme. Clause 5 provides for the grants made to the fund by the Central Government. The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees one hundred crores per annum.

It is also likely to involve non-recurring expenditure of about rupees ten lakhs.

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## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the above delegation will be a matter of details only, the delegation of legislative power is of normal character.

## XI

BILL NO. LIII OF 1990

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1990.
2. In article 51A of the Constitution after clause (j) the following clause shall be inserted, namely:—

“(k) to vote in elections to Lok Sabha, State Assemblies and local bodies.”

Short  
title.

Amend-  
ment of  
article 51A.

## STATEMENT OF OBJECTS AND REASONS

The Constitution guarantees to citizens to register as voters and participate in voting for elections to various institutions such as Lok Sabha, State Assemblies and local bodies. It, however, does not provide for compulsory voting at such elections as a part of their duty as citizens of the country. This has given rise to a feeling in recent years that every voter obliges a contesting candidate or a Political Party but does not treat it as a part of his duty to strengthen democratic process of the country. This often leads to malpractices in securing votes. It is, therefore, felt that casting of vote for elections various institutions such as Lok Sabha, State Assemblies and local bodies should be made a Fundamental Duty under the Constitution.

Hence this Bill.

JOHN F. FERNANDES.

## XII

## BILL NO. XLIX OF 1990

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Companies (Amendment) Act, 1990.

(2) It shall come into force with immediate effect.

2. After section 224A of the Companies Act, 1956 the following section shall be inserted, namely:—

“224B. Notwithstanding anything contained in this Act, where a private or a public company under this Act has assets of rupees one crore or more and its average turnover during the preceding three financial years amounts to rupees five crores or more, the accounts of such company shall be audited by the Comptroller and Auditor General of India on payment of fees by the company as may be prescribed:

Short  
title  
and  
com-  
mence-  
ment.

Insertion of  
new  
section  
224B.

Audit  
of certain  
compa-  
nies by  
the Com-  
ptroller  
and  
Auditor  
General  
of  
India.

Provided that in the case of a newly incorporated company, instead of the average turnover of three preceding financial years, the average turnover of preceding two years or the turnover of the preceding year, as the case may be, shall be taken into account."

## STATEMENT OF OBJECTS AND REASONS

The company law provides limitless opportunities for Private Limited and Public Limited Companies to escape from strict scrutiny as the accounts of these companies are being audited by private firms of Chartered Accountants. It means one private firm certifies the financial transactions of another private company. In many cases Chartered Accountancy firms are owned and established by big industrial houses. Thus the real and accurate audit of these private and public companies is not above suspicion. One of the pivotal reasons for unprecedented growth of black money is the auditing of accounts by private companies since these Chartered Accountant companies are not responsible to the Parliament in any way. Therefore, the provision of auditing by Comptroller and Auditor General of India in certain cases, will reduce the possibility of generating black money by such companies to a great extent. In order to attack parallel economy of black money successfully, auditing by CAG is essential. By this amendment, tax evasion by private companies can be reduced considerably.

Hence this Bill.

RAM AWADHESH SINGH

SUDARSHAN AGARWAL,  
*Secretary-General.*

